



CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

April 24, 2008

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 251 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Harold L. Boulter, Bob Buchanan, H. Gerald Jowers, and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney A. Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager Marshall Robertson, Public Services Director Don Cochran, Fire Chief John Williamson, Police Chief George Brennan, Finance Director Brian Strobeck, Human Resources Director Frank Gilbert, Information Technology Director Bob Reilly, Recreation Director Jay Conn, Economic Development Director Dolores Key, Assistant City Engineer Mike Kelley, Planning Director Ed Williams, Solid Waste Manager John Love, Executive Assistant to the City Manager Andrea Vaughn, and West Orange Times reporter Michael Laval

1. **APPROVAL OF MINUTES**

Motion by Commissioner Jowers to approve the regular meeting minutes of April 10, 2008 as submitted. Seconded by Commissioner Boulter and carried unanimously 5-0.

2. **PRESENTATIONS, OATHS, AND PROCLAMATION**

A. Tenth Annual Drop Savers Awards were presented by Mayor Rees and Water Conservation Coordinator Dennis Jones to the following winners out of 900 entries:

<u>Calvary Christian School</u>	4 th Grade Kim Le
	3 rd Grade Emma Green
<u>Dillard Elementary</u>	4 th Grade Trevor Packey
	3 rd Grade Madelin Zubricky
<u>Foundation Academy</u>	4 th Grade Brooke Hill
	3 rd Grade Dan Lord
<u>Whispering Oak Elementary</u>	4 th Grade Jaime Sharp (<i>absent</i>)
	3 rd Grade Josh Busch
<u>Maxey Elementary</u>	4 th Grade Kishen Patel
	3 rd Grade Dylan Romano
<u>Hope Charter School</u>	3 th Grade Cecelia Dixon

B. Introduction and Oaths were administered by Police Chief Brennan to new police officers John Hanke, Mark Narvaez, Frederick Rolle, and Takela Young.

C. Mayor Rees read and presented Proclamation 08-03 declaring the week of June 2-6, 2008 as Code Enforcement Officers' Appreciation Week.

D. Presentation on special assessment for fire fees

Jason Bucholz with Government Services Group, Inc. gave a PowerPoint presentation (*see attached*) of their Fire Rescue Assessment Study that the City of Winter Garden requested. Mr. Bucholz presented the following preliminary assessment rates based on a 5-year average budget of \$5.2 million:

Rate per dwelling unit:	At 100%	At 50%
Single Family Residential	\$274.00	\$137.00
Multi-family Residential	\$151.00	\$ 76.00
<u>Non-residential rate per square foot by category:</u>		
Commercial	\$ 0.41	\$ 0.21
Industrial/Warehouse	\$ 0.05	\$ 0.03
Institutional	\$ 0.67	\$ 0.34
Nursing Homes	\$ 1.50	\$ 0.75

The rates can be set at any portion of these amounts but the rates cannot be exceeded because in their opinion the City would also be funding emergency medical services. The rates can only be for fire accessory benefit to a property. Mayor Rees asked if they also calculated a 5-year CPI. Mr. Bucholz responded that they used 4 percent per year for CPI.

Mr. Bucholz stated that when calculating the rates they have to include every property type including tax exempt properties because no one can pay for anyone else's portion of the cost. Granting an exemption to churches, based on the \$5.2 million, the City would have to get the revenue from another source such as general revenue. Another tax exemption to be made up would be for government exempt properties. Granting such exemptions would be about \$900,000. The rate for these types of properties can be set at a lower rate. Properties owned by governmental agencies cannot be forced to pay but it gives the City a tool for negotiating for items such as schools or polling locations.

The presentation included a proposed schedule for implementing the fee by July 1, 2008 if that deadline is implemented for cities to be grandfathered in. If not, the City will have until September 15, 2008 to certify the assessment roll to the Orange County Tax Collector for this year.

City Manager Bollhoefer in closing stated that this presentation was for informational purposes to share how the calculations were derived, what the amounts are, and the options available. There is more to be done that will include workshops and public hearings.

3. **PUBLIC HEARINGS:**

A. **STIPULATED SETTLEMENT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS IN DOAH Case No. 07-4414GM**

Planning Director Williams stated that he takes a great deal of professional pride in bringing these two documents to the City Commission. Mr. Williams explained that in 2002 - 2003 the state legislature, the Department of Environmental Protection (DEP), Water Management District, and the Department of Community Affairs (DCA) got legislation

passed that instituted a number of regulatory programs to protect the Wekiva River Basin, Wekiva Springs, and Rock Springs. He described the City's efforts for complying with that legislation. The City Commission adopted a program, sent it to DCA and it was rejected by the DCA at the staff level. He explained that the board went back and amended the program, adopted it again and it was again rejected. At that point the City Manager made the tough decision to fight and applied for relief through the administrative hearing process. He explained that the City was in the right and was complying with the law and in going forward the City engaged legal counsel. They were fortunate enough that after depositions were taken they met with Secretary Pelham. After he heard the City's evidence and his staff's evidence, Secretary Pelham agreed that the City was right in that our program did exceed the legislation and he granted the City the relief it was seeking. Mr. Williams added that the City of Winter Garden is the only jurisdiction which the DCA has granted relief. He thanked and recognized the City Commission, City Manager, City Attorneys, City Engineer, and staff for their efforts in this process.

Mayor Rees opened the public hearing. Commissioner Jowers thanked everyone for their efforts in this matter. Hearing or seeing no other comments, Mayor Rees closed the public hearing. **Motion by Commissioner Jowers to approve and authorize entering into the Stipulated Agreement with the State of Florida Department of Community Affairs in DOAH Case No. 07-4414GM. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

There was discussion on the DCA's reaction to the evidence presented to them in the hearing.

- B. **ORDINANCE 08-31:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 05-56 CONCERNING THE AMENDMENT OF THE WINTER GARDEN COMPREHENSIVE PLAN TO COMPLY WITH THE WEKIVA PARKWAY AND PROTECTION ACT; PROVIDING FOR REMEDIAL AMENDMENT OF ORDINANCE 05-56 PURSUANT TO A COMPLIANCE AGREEMENT WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICTS, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 08-31 by title only. City Planner Williams stated that staff is recommending approval. Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing. **Motion by Commissioner Sharman to adopt Ordinance 08-31. Seconded by Commissioner Boulter and carried unanimously 5-0.**

4. **REGULAR BUSINESS**

- A. **Resolution 08-09:** A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING AND APPROVING A REVISED RATE SCHEDULE FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE SERVICES; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 08-09 by title only. Public Services Director Cochran stated that the solid waste fund is one of the City's enterprise funds that the citizens pay in to offset the cost of collecting residential and commercial garbage, yard waste, and bulk service. He explained that the City's residential solid waste fees have been \$16.00 a month since 1989. Since that time, the City has seen significant growth and increases in operational costs. Last June the City contracted with Solid Waste Management's consultant Timothy Hunt, Jr., Associates to prepare a study of the City's cost of services. In their study the consultant recommended increasing our residential rate from a monthly fee of \$16.00 to somewhere in the range of \$18.00 to \$22.00 per month. Staff is recommending that the City meet that range in the middle and increase the residential rate from \$16.00 to \$19.00 a month. The commercial rate over the past several years has been increased by the consumer price index (CPI) and the City wants to continue that practice. The consumer price index for this year is set at 2.2 percent and staff recommends this increase for the commercial rate.

Mr. Cochran stated that there was one item that was not listed in the attachment and that is the rate for residential front-end loader. This rate applies to six apartment complexes and Trailer City. He stated that staff would like to keep that rate the same at \$16.00 per month. He recommended the adoption of Exhibit "A" of Resolution 08-09 setting the fee schedule at \$19.00 per month for residential, 2.2 percent increase for commercial, and amending it to include the front-end loader residential rate at \$16.00 per month.

Mayor Rees asked where these fees fall in line with other municipalities. Mr. Cochran responded that operational costs are affected by the distance between the City and the landfill. He gave fee examples for Ocoee at \$19, Maitland at \$19.62, and others are at \$15 - \$16 but they may be a little closer to their landfill so their operational costs are lower. City Manager Bollhoefer stated that when comparing us to other agencies, the City's level of service is a great service and explained by giving an example of waste items picked up. Mr. Bollhoefer stated that we would like to maintain the higher level of service because we think that is what the citizens would like.

Mr. Cochran stated that staff will re-evaluate these services on an annual basis and not wait for another 19 years before looking at an increase in the residential rate.

Commissioner Sharman stated that he did notice the 19 years and that struck him as well overdue. As stated by Mr. Cochran, this is an enterprise fund that can only be used to fund trash service and nothing else. Mr. Cochran responded that they are not subsidized by any other taxes or any other fees in the City. These funds go directly to offset the costs of the day-to-day operations.

Commissioner Buchanan asked if additional equipment had been purchased because of all the new subdivisions. Mr. Cochran stated that recently a commercial front-end loader was purchased. One of the recommendations the consultant made was for the City, in the future, look at more automated equipment to help keep the costs low. Commissioner Buchanan asked about a central compaction option. Mr. Cochran stated that this is

something that has been discussed and is being looked at with Orange County. There have been plans to build a station closer to Winter Garden but the negotiations have not yet been completed.

Motion by Commissioner Buchanan to adopt Resolution 08-09. Seconded by Commissioner Boulter and carried unanimously 5-0.

- B. **Resolution 08-10:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, RELATING TO WEST STATE ROAD 50 COMMERCIAL; CREATING THE WEST STATE ROAD 50 COMMERCIAL CORRIDOR REVIEW BOARD; DEFINING THE PURPOSE OF THE BOARD; ESTABLISHING THE PROCEDURES FOR SELECTION OF BOARD MEMBERS AND THE TERMS OF BOARD MEMBERS; ESTABLISHING A SUNSET DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Resolution 08-10 by title only. City Manager Bollhoefer stated this item has been discussed for quite awhile to create a committee to review the existing State Road 50 overlay district. He explained that the committee will be looking into the rules regarding what can be done architecturally, landscaping, signage and such. The committee will also look into the possibility of creating a Community Redevelopment Area; other funding methodologies; and for Brownfield designation. They will take a look at the whole State Road 50 area and see if there is a way to do it better this time.

Mr. Bollhoefer stated that there was an error found in the resolution under Section 1.A, item (i). What he intended was that the first two members would be in incorporated Winter Garden and he asked that at the end of the sentence add “within incorporated Winter Garden” because it was the intent that two members of this board would own a business and property within the incorporated Winter Garden and another member would be a County business. A goal of the board would be to get a wide range of opinions from different perspectives on State Road 50.

Mayor Rees asked how the committee members would be selected. Commissioner Jowers suggested that each Commissioner give their member names to the City Manager for the next meeting. Mayor Rees concurred by stating that member names can be given to the City Manager and he can distribute them prior to the next meeting. The City Commission can then vote on them individually.

Commissioner Boulder asked how many names need to be submitted. Mr. Bollhoefer suggested bringing in as many names as possible because of the variety of seats needing to be filled are in different categories.

Commissioner Buchanan asked if they did not have to be residents, just property owners. Mr. Bollhoefer indicated two do not have to be residents they will just have to own the business and the property, one will be a business and property owner on State Road 50 but be in unincorporated Winter Garden, and two are regular citizens who cannot be on

State Road 50 because they will be able to give the view of people not living on State Road 50.

Mayor Rees reiterated that if the Commissioners know of someone to serve on the board, they should talk to them within the next week or so and get the names to the City Manager who will distribute them before the next meeting. Then they will be considered at the next City Commission meeting.

Motion by Commissioner Jowers to adopt Resolution 08-10, as amended. Seconded by Commissioner Sharman and carried unanimously 5-0.

C. Recommendation to approve an Environmental Contamination Hold Harmless and Indemnity Agreement with MPG Avamar, Ltd.

Planning Director Williams stated that this is a prerequisite to the final plat for the Avamar Crossing Commercial area at the southwest corner of Marsh Road and Avalon/CR 545 and staff recommends approval. **Motion by Commissioner Sharman to approved the Environmental Contamination Hold Harmless and Indemnity Agreement with MPG Avamar, Ltd. Seconded by Commissioner Buchanan and carried unanimously 5-0.**

D. Recommendation to approve the final plat for Avamar Crossing as part of the Avalon Reserve PUD located on the west side of CR 545 south of Marsh Road with conditions

Planning Director Williams stated that staff recommends approval of the final plat with the conditions stated in the memorandums from the Engineering Department and from the City Attorney. The plat is for four lots for the commercial development that was previously approved. Commissioner Sharman asked if the applicant has agreed with staff's recommendations. Mr. Williams replied yes. **Motion by Commissioner Jowers to approve the final plat for Avamar Crossing as part of the Avalon Reserve PUD located on the west side of CR 545 south of Marsh Road with conditions (see attached). Seconded by Commissioner Sharman and carried unanimously 5-0.**

E. Recommendation to approve the site plan for Roper YMCA located at Marshall Farms/Windermere Roads with conditions and subject to receiving a special exception permit from the Planning and Zoning Board on May 5, 2008

Planning Director Williams stated that they are asking for approval of this site plan for additional facilities that include a wellness center addition, multi-purpose space, and child development space. It also includes support utilities parking, landscaping, and drainage improvements to support the existing facilities as well as the expansion. Staff recommends approval subject to those conditions.

Commissioner Buchanan asked Mr. Williams to go over the special exception application. Mr. Williams explained that it is required that they have one because this property was transferred from the County and no special exception was ever done. It is more of a formality rather than the typical procedure, but because it had previously been developed under Orange County approvals the Roper YMCA needs to go through the

special exception process. He stated that staff does not anticipate any problems. The issue has been reviewed and to get this hearing to allow them to proceed is a little out of the normal order.

Motion by Commissioner Buchanan to approve the site plan for Roper YMCA located at Marshall Farms/Windermere Roads with conditions (*see attached*) and subject to receiving a special exception permit from the Planning and Zoning Board on May 5, 2008. Seconded by Commissioner Sharman and carried unanimously 5-0.

F. Recommendation to approve an Emergency Medical Services Agreement with Orange County to allow the City to receive four (4) Wisperflows and related equipment through grant funds

Fire Chief Williamson explained that this item is a grant from Orange County at no cost to the City. It is 100 percent funded for some ALS equipment that the City purchased through this grant.

Mayor Rees asked Chief Williamson to explain Wisperflow. Chief Williamson stated that it is a ventilation tool used to keep the lungs inflated at all times and keeps positive pressure in the lungs.

Motion by Commissioner Boulder to approve an Emergency Medical Services Agreement with Orange County to allow the City to receive four (4) Wisperflows and related equipment through grant funds. Seconded by Commissioner Jowers and carried unanimously 5-0.

5. MATTERS FROM CITIZENS

Lynn Cole, 24 Temple Drive, Winter Garden, Florida, thanked the Fire Department for their response to her call regarding her brother on December 21st. She stated that the minute they walked in there was peace, calm, and professionalism.

6. MATTERS FROM CITY ATTORNEY

City Attorney Ardaman gave a brief update on the downtown district issue stating that information has been obtained from a number of other cities that have been proactive in encouraging their downtown activities. There are a variety of plans and staff would like to get back to the City Commission with actual recommendations or suggested workshops within the next couple of meetings.

7. MATTERS FROM CITY MANAGER

- Financial statements were distributed and if there are any questions, please contact him or the Finance Director.

- Request for waiver of Tanner Hall rental fees by the Girl Scouts

Mr. Bollhoefer stated that the Girl Scouts are having a ceremony at Tanner Hall on May 12, 2008 and they are requesting that the City Commission waive the \$75.00 rental fee for their event. Commissioner Buchanan recommended that the \$75.00 rental fee for Tanner Hall be waived for the Girl Scout event on May 12, 2008. It was the **consensus** of the City Commission that the fees be waived as requested.

- Serving Alcohol in the Historic Downtown area

Mr. Bollhoefer stated that a few of the downtown merchants have asked him for an interpretation of our laws regarding the serving of alcohol outside their businesses. The City Attorney had done the research and has provided staff with his interpretation. Mr. Bollhoefer distributed a copy of the City Attorney's opinion in a matrix form, which makes it a little easier to understand. He gave a brief explanation stating that per the current City Code if alcohol is served in the public way, they would need City Commission approval to serve it outside. If it is not in the public way then it would be considered private property and if the area is delineated from the public way, per our code, you would be allowed to serve alcohol outside with the caveat they would have to have some divider to delineate what is public way and what is not. If there was a situation where it was private property and the City had an easement, then it would be public way and alcohol could not be served without City Commission approval. On the south side of Plant Street the merchants own about eight feet of the sidewalk and there is no pedestrian easement so it is private property and they would only be allowed to sell alcohol if their state license permits it.

City Attorney Ardaman stated that it looks a little complicated and explained that there are State rules and laws, City rules and laws, with multiple provisions that apply. He stated that the City Manager's suggestion of the chart was a great suggestion where you can plug in the facts and figure out whether you need City Commission approval or whether you will need a sidewalk café permit and whether or not you will have to pay the tax. Commissioner Buchanan asked if by delineate does it mean they have to put up some type of rail? Mr. Bollhoefer stated that it would need to be some type of railing.

Mayor Rees indicated that the City Commission will take the information provided and if they have any questions they will contact the City Manager. Mr. Bollhoefer stated that staff is moving forward with the current interpretation.

8. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Buchanan stated that he has been told that the Boys and Girls Club on the east side of town is nearing capacity. He has been asked by a couple of people to see if there is any way that the City could work with Orange County to see what can be done to expand their capacity to enhance their great efforts.

Mr. Bollhoefer replied that approximately a year-and-a-half ago the City was approached and there were discussions with the County because it is the Mildred Dixon Center that the County is allowing the Boys and Girls Club to use exclusively. They would like to expand it from 5,000 square feet to 10,000 square feet and enclose the gymnasium area. The City has

had initial talks with the County saying that the City may want to get involved but what staff thought was important is that if the City gets involved the County would give the City the asset. Then the City would have to work with the Boys and Girls Club so that the building would not be exclusively the Boys and Girls Club, but could also be used to serve many other members of the community.

Commissioner Sharman added that the Boys and Girls Club in Pine Hills just received a large sponsorship from Disney to redo their facility. The City could consider looking at corporate sponsorships to help with this location as well. Mr. Bollhoefer stated that there was someone willing to donate \$250,000 if this were to take place and then we could look for other corporate sponsorships.

Commissioner Boulter reminded and invited everyone to attend the Zander's Park rededication ceremony this Saturday at 10:00 a.m. He thanked Recreation Director Jay Conn, City Manager Mike Bollhoefer, Mayor, and Commissioners for making it the most beautiful park in the City at this point.

Commissioner Sharman stated that he was reminded that he needed to submit a member name for the Districting Commission and nominated Mark DeFuso. **The City Commission voted unanimously to appoint Mark DeFuso to the Districting Commission.**

Commissioner Sharman stated that the last meeting minutes referenced coming up with a name for our downtown district and he suggested calling it a destination district instead of an entertainment district because we want it to become a destination.

Mayor Rees stated that he attended a very good meeting last Tuesday night with a lot of homeowner association presidents. They will try to meet quarterly and he expressed that it was a very educational and enjoyable meeting.

The meeting adjourned at 7:50 p.m.

APPROVED:

/S/_____
MAYOR JOHN REES

ATTEST:

/S/_____
City Clerk Kathy Golden, CMC